

SENATE RESOLUTION 108

By Summerville

A RESOLUTION to declare the duty of the Attorney General and Reporter of Tennessee to defend the constitutionality of Article XI, Section 18, of the Constitution of Tennessee.

WHEREAS, the people of Tennessee have overwhelmingly voted to amend the Constitution of the State of Tennessee, in Article XI, by adding Section 18, which recognizes in this state only a marriage between one man and one woman as a valid marriage; and

WHEREAS, Tennessee Code Annotated, Section 36-3-113, as enacted by the General Assembly of this state, also recognizes only a marriage between one man and one woman; and

WHEREAS, in the case of *Tanco v. Halsam*, a federal court judge in Tennessee recently issued a preliminary injunction with respect to the six plaintiffs who challenged the constitutionality, under the United States Constitution, of Tennessee's Constitution and statutes limiting marriage to a relationship between one man and one woman; and

WHEREAS, this preliminary injunction will require the State of Tennessee to recognize and give effect to marriages of the six plaintiffs, which were entered into in other states, on the basis of a supposed likelihood of success on the merits of the challenge; and

WHEREAS, the office of Attorney General and Reporter was created in the first Tennessee Constitution and its powers and duties have been largely unchanged for more than 200 years; and

WHEREAS, the defense of that Constitution before the courts of this state and of the United States has remained a principal duty of the Attorney General and Reporter by precedent and practice; and

WHEREAS, the Attorney General and Reporter of Tennessee should be faithful to that principal duty by defending the constitutionality of Article XI, Section 18 of the Constitution of Tennessee against current challenges in the courts; and

WHEREAS, the General Assembly reaffirms that it is and shall be duty of the Attorney General to defend said Constitution and the Attorney General should be encouraged to defend the Constitution of Tennessee; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED EIGHTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that this body declares that it shall be duty of the Attorney General to vigorously and unstintingly defend Article XI, Section 18 of the Constitution of Tennessee, which defines marriage in this State as a “legal contract solemnizing the relationship of one man and one woman” and further states that it “shall be the only legally recognized marital contract in this state. Any policy or law or judicial interpretation, purporting to define marriage as anything other than the historical institution and legal contract between one man and one woman, is contrary to the public policy of this state and shall be void and unenforceable in Tennessee.”

BE IT FURTHER RESOLVED, that this body does urge the Attorney General and Reporter to take all necessary and beneficial steps to defend the constitutionality of Article XI, Section 18 of the Constitution of Tennessee.

BE IT FURTHER RESOLVED, that an appropriate copy of this resolution be prepared for transmission to the Attorney General and Reporter of Tennessee.